

HOUSE BILL REPORT

SSB 6223

As Passed House - Amended:

March 1, 2006

Title: An act relating to derelict or abandoned vessels.

Brief Description: Modifying provisions regarding abandoned or derelict vessels.

Sponsors: By Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Rockefeller, Regala, Oke, Berkey and Spanel).

Brief History:

Committee Activity:

Natural Resources, Ecology & Parks: 2/17/06, 2/21/06 [DPA].

Floor Activity:

Passed House - Amended: 3/1/06, 98-0.

Brief Summary of Substitute Bill (As Amended by House)

- Creates a new misdemeanor for causing a vessel to become abandoned or derelict on any aquatic lands in the state.
- Changes the process for a vessel owner to contest the possession of his or her vessel by an authorized public entity.
- Changes the cost-share ratio for authorized public entities that seek reimbursement from the state for the costs associated with derelict vessel removal and disposal.

HOUSE COMMITTEE ON NATURAL RESOURCES, ECOLOGY & PARKS

Majority Report: Do pass as amended. Signed by 10 members: Representatives B. Sullivan, Chair; Upthegrove, Vice Chair; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Blake, Chandler, Dickerson, Hunt, Kagi and Orcutt.

Staff: Jason Callahan (786-7117).

Background:

Removal of derelict or abandoned vessels

An authorized public entity (APE), which includes state agencies and local governmental entities that own aquatic land or shorelines, has the discretionary authority to remove and destroy a vessel within its jurisdiction that has become abandoned or derelict. The Department of Natural Resources (Department) has an oversight and policy setting role in the removal and disposal process.

Taking possession of derelict vessels

Prior to taking action on a vessel, an APE must attempt to notify the vessel's owner of its intent to remove the vessel. Notice must be mailed to the last known address of any identifiable owners, posted clearly on the vessel, and printed in a newspaper in the county in which the vessel is located. All notices must include specified information, including the procedures that must be followed to reclaim possession of the vessel, possible financial liabilities, and the rights of the APE after custody of the vessel is claimed.

Once the APE takes custody of a vessel, the APE may use or dispose of the vessel in any environmentally sound manner. However, the APE must first attempt to derive some value from the vessel either in whole or scrap. If a value can be derived, then that amount will be subtracted from the financial liabilities of the owner. If the vessel has no salvageable value, then the APE must utilize the least costly disposal method.

The owner of a derelict or abandoned vessel is responsible for reimbursing the APE for all costs associated with the removal and disposal of the derelict or abandoned vessel. These costs include administrative costs and costs associated with any environmental damage caused by the vessel.

Challenging custody of a derelict vessel

An owner seeking to reclaim a vessel that is in the custody of an APE, or wishing to contest the amount of liability owed, must bring an action in state court within 20 days of custody of the vessel being taken. If a lawsuit is not commenced within 20 days, the right to a hearing will be deemed waived.

The Derelict Vessel Removal Account

Monies in the Derelict Vessel Removal Account (Account) are used to reimburse APEs for 75 percent of the costs associated with removing and disposing of abandoned or derelict vessels when the owner of the vessel is unknown or unable to pay. The APE may contribute its 25 percent of removal costs through in-kind services. Priority for use of the Account's funds must be given to the removal of vessels that are in danger of breaking up, sinking, presenting environmental risks, or blocking navigation channels. Prioritization guidelines have been developed by the Department.

Summary of Amended Bill:

New crime

It is a misdemeanor to cause a vessel to become abandoned or derelict on any aquatic lands in the state.

Contesting possession of a vessel or fees due

The process by which the owner of a vessel that has been taken into custody by an APE is changed so that the first and only venue to be heard is not a court of law. If the action that a vessel owner wishes to contest was taken by a state agency, the owner may request a hearing with the Department to challenge the decision to take custody or to challenge the amount of reimbursement due. The written hearing request must be filed within 20 days of the state taking custody of the vessel. If the vessel has already been reclaimed by the owner, a challenge to the reimbursement due must be filed no later than the day the vessel was redeemed. If the owner does not file a challenge within the established time frame, then the right to a hearing is deemed waived.

The Department must hear the challenge to custody or reimbursement amount and determine the validity of the claim. The Department must provide a hearing date and location to the vessel owner within five business days. For vessels still in custody of the state, the hearing may not be more than 10 days from the date that the hearing request was filed by the vessel owner. The Department must set a hearing date within 60 days of the request for vessels that have already been redeemed by the owner.

If the action that a vessel owner wishes to contest was taken by a local government, then the owner must file a challenge in accordance to the procedures or rules established by the local government. If the local government has not developed a procedure for hearing challenges, then the appeal must be directed to the local court.

Any APE that takes possession of a vessel may require full reimbursement of cost prior to releasing the vessel to the owner.

APE cost-share ratio

The maximum amount of funding from the Account to APEs is increased from 75 percent of the total reasonable and auditable costs for handling a derelict vessel to 90 percent of total costs. The APE is responsible for the remaining 10 percent of costs.

Revenue and spending changes for the Derelict Vessel Removal Account

The Account is specifically authorized to accept gifts, grants, and endowments. Any revenue from these sources may be used as directed by the grantor, as long as those uses are not inconsistent with the requirements of the state law on derelict and abandoned vessels.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (In support of substitute) The current framework for managing derelict and abandoned vessels has been operating for three years with great success. However, the early implementation of the program has identified some helpful changes.

Removing derelict vessels is important for aesthetics, navigation, and environmental health. Lowering the cost-share ratio for APEs will allow them to remove even more vessels and clean the waterways quicker. It also allows the Department to put the Aquatic Lands Enhancement Account to more productive uses.

The changes hold those responsible for the abandonment of a vessel accountable and creates a more timely appeals process that ensures due process requirements are satisfied.

Testimony Against: None.

Persons Testifying: (In support of substitute) Senator Rockefeller, prime sponsor; Ray Schow and Steve Greaves, Recreational Boating Association of Washington; Fran McNair, Department of Natural Resources; and Sharon Case, City of Olympia.

Persons Signed In To Testify But Not Testifying: None.